

REMARKS/ARGUMENTS

This Amendment is being filed in response to the Final Office Action dated September 14, 2009. Reconsideration and allowance of the application in view of the amendments made above and the remarks to follow are respectfully requested.

Claims 1-14 are pending in the Application.

In the Final Office Action, claims 1-14 are rejected under 35 U.S.C. §102(e) over U.S. Patent application publication No. 2002/0136537 to Takahashi ("Takahashi"). These rejections are respectfully traversed. It is respectfully submitted that claims 1-14 are allowable over Takahashi for at least the following reasons.

In a Response to Arguments Section of the Final Office Action, a position is taken that (emphasis added) "Takahashi discloses in paragraph 11 it is determined on the basis of the defect management information, not management rules." (See, Final Office Action, page 2.) This seems more like an argument of semantics as a person of ordinary skill in the art would readily appreciate that the defect management information of Takahashi is in accordance with management rules, however, Applicants have elected to amend the claims to clarify that which is recited in the claims.

In any event, it should be appreciated that Takahashi does no more than follow prior art systems of managing the defect management area (e.g., see, Takahashi, paragraph [0012]).

It is respectfully submitted that the apparatus of claim 1 is not anticipated by the teachings of Takahashi. For example, Takahashi does not teach, disclose or suggest, an apparatus that amongst other patentable elements, comprises a control means adapted (illustrative emphasis added) "to read the user data from the replacement area, and to re-record the user data read in the defect area regardless of whether either of the defect area is indicated as defective or the defect area is defective" as recited in claim 1 and as similarly recited in claims 7, 13 and 14. Furthermore, Takahashi does not teach, disclose or suggest, an apparatus that amongst other patentable elements, comprises a control means adapted (illustrative emphasis added) "to read the user data either from the replacement area or from the defect area corresponding to the replacement area in dependence on monitoring and speed requirements for the speed of outputting the digital audio/video signals read regardless of whether either of the defect area is indicated as defective or the defect area is defective" as recited in claim 5 and as similarly recited in claim 11.

It is respectfully submitted that Takahashi simply shows that which is known which is to utilize the prior art systems of managing the defect management area based on defect management information/defect management rules.

Based on the foregoing, the Applicants respectfully submit that independent claims 1, 5, 7, 11, 13 and 14 are patentable over Takahashi and notice to this effect is earnestly solicited. Claims 2-4, 6, 8-10 and 12 respectively depend from one of claims 1, 5, 7, and 11 and accordingly are allowable for at least this reason as well as for the separately patentable elements contained in each of the claims.

For example, while the Final Office Action takes a position that Takahashi shows the elements of claims 2, 3, 8 and 9 in paragraph [0012], this position is respectfully refuted since Takahashi does not teach, disclose or suggest the "re-recording" of claim 1. In addition, Takahashi does not teach, disclose or suggest (illustrative emphasis added) "the control means are adapted to read user data re-recorded in the defect area, to compare the user data read from the defect area with the user data read from the corresponding replacement area, and to include results of comparing in the re-recording information" as recited in

claim 3 and as similarly recited in claim 9. Takahashi does not compare data in the defect area to data stored in corresponding replacement area and include the results in the re-recording information. It is therefore respectfully submitted that claims 2, 3, 8 and 9 are allowable for this additional reason as well as based on dependence on respective claims 1 and 7.

Accordingly, separate consideration of each of the dependent claims is respectfully requested.

In addition, Applicants deny any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicants reserve the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded.

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Amendment in Reply to Final Office Action of September 14, 2009

Applicants have made a diligent and sincere effort to place this application in condition for immediate allowance and notice to this effect is earnestly solicited.

Respectfully submitted,

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